

REMARKS

INTRODUCTION

Claims 1-26 were previously [and are currently] pending and under consideration.

Claims 27 is added herein.

Therefore, claims 1-27 are now pending and under consideration.

Claims 1-26 are rejected.

Claims 1-12, 14-20 and 23 are amended herein.

No new matter is being presented, and approval and entry are respectfully requested.

REJECTIONS UNDER 35 USC §§ 102 AND 103

In the Office Action, at pages 3-5, claims 1, 3, 10, 12, 16, 17, 20 and 21 were rejected under 35 U.S.C. § 102 as anticipated by Bereiter. At page 6 of the Office Action, claim 22 was rejected under 35 U.S.C. § 103 as being unpatentable over Bereiter. Claims 2, 4-9, 11, 13-15, 18, 19, and 23-26 were rejected under 35 U.S.C. § 103 as being unpatentable over Bereiter in view of Duvvoori. These rejections are traversed and reconsideration is requested.

INTERVIEW

An Interview was conducted with the Examiner during which the claims and Bereiter were discussed. The substance of the Interview discussion is set forth herein.

CLAIM AMENDMENTS

The independent claims are amended to clarify inventory information. Amended claim 1, for example, recites that the inventory information of a computer being inventoried comprises an inventory regarding software actually installed nonvolatiley in the computer, where the inventory information of each computer is generated by scanning the computer to search for predefined indicia of nonvolatile installation of respective of the different software products without regard for whether or not the installed software is currently executing on the computer.

Support for this clarification is found at least at Figure 1, page 14, lines 16-20 and page 20, line21-page 21, line 18 of the specification, according to which inventories are collected on the basis of a distributed software dictionary. Figure 1 shows a software dictionary being sent to a computer and inventory being returned from the computer. Pages 20 and 21 discuss the

software dictionary. The software dictionary has indicia for identifying different software products (corresponding to different software codes). The indicia can be a file or a string in the registry of the computer, for example. According to lines 13-19 on page 21, the indicia are searched for on a computer to generate an inventory of the different software products installed on the computer.

DISTINCTIONS OVER THE PRIOR ART (BEREITER & DUVVOORI)

In Bereiter, a management task is tied to method invocation (column 8, lines 47-51). Method invocations are counted to determine an authorized number of software copies of a particular program that are running in the system (Abstract, column 7, lines 54-60, column 8, line 17-column 9, line 7). Although Bereiter discusses counting running programs, it also mentions node-lock (per-computer) licenses for programs installed on a computer (column 9, lines 48-64). Nonetheless, the invocation-driven auditing is used to deny or grant an operation involving the program that requires a license. Bereiter differs in that it counts *invocations of an individual program* rather than searching for different *installed* programs. Furthermore, because Bereiter's audit occurs at the time of invocation, Bereiter simply does not need to scan or search for different programs at one time; the presence of a program is obvious because it is being invoked. As summarized at column 10, lines 55-60, in Bereiter:

The invention takes ... advantage of an existing secure object-oriented system management framework to implement the transparent software licensing audit protocol, preferably by counting the number of *method invocations* across the distributed environment *when a particular application is used*.

Because Bereiter is invocation driven, it has no need to scan a computer to search for different installed software products as in claim 1. Bereiter is concerned with preventing unlicensed *invocations* of a program. Also, Bereiter does not discuss or suggest using predefined indicia of nonvolatile installation of respective of the different software products to obtain inventory. Finally, according to the clarified claims an inventory inventories more than one different program (software product) on a computer. This is consistent with the definition of "inventory": "an itemized list of current assets: as (1) : a catalog of the property of an individual or estate (2) : a list of goods on hand" (Merriam Webster Online Dictionary). Although Bereiter might accumulate audit information of different programs over time after respective invocations, it does not generate an inventory from a given search or scan of a computer at one time. The changes in the preamble and managing unit emphasize the significance of "inventory".

Claim 1, for example, recites:

a calculating unit calculating a difference between the number of software

licenses owned by the organization and a number of software licenses actually installed, which is calculated on the basis of the collected inventory information, and outputting information representing an excessive or insufficiency in the number of software licenses or information regarding purchase of additional software licenses

The rejection compares this feature to column 9, lines 23-26 of Bereiter. However, this portion of Bereiter explicitly states that what is counted is "the number of endpoint (or other machines) *running* the application", which is not the same as calculating a number of licenses actually installed. Furthermore, Bereiter goes on to explain that "With such information, the *system administrator*, or a *third party* ... may determine whether unauthorized software usage is occurring in the managed network". In claim 1, it is the apparatus itself that outputs information about excessive or insufficient software licenses or information about purchasing additional licenses. In contrast, Bereiter discloses a person determining whether there is unlicensed use of a program.

Finally, the amended claims clarify the difference between collecting on an individual computer (searching/scanning and generating inventory information), and the central collecting of the collections/inventories of the individual computers. Bereiter does not disclose or suggest this combination of features.

Duvvoori adds nothing to Bereiter with respect to the features of the invention discussed above.

New claim 27 provides another presentation of features discussed above.

DEPENDENT CLAIMS

The dependent claims are deemed patentable due at least to their dependence from allowable independent claims. These claims are also patentable due to their recitation of independently distinguishing features. For example, claim 2 emphasizes that the scanning is based on the contents of a dictionary. This feature is not taught or suggested by the prior art. Withdrawal of the rejection of the dependent claims is respectfully requested.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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